



United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

MEMO ENDORSED

November 21, 2018

**VIA ECF**

The Honorable Denise L. Cote  
United States District Judge  
United States District Court for the  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 1610  
New York, New York 10007

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Re: *United States v. Mahmoud Thiam*  
17 Cr. 47 (DLC)

Dear Judge Cote:

The Government respectfully submits this letter pursuant to the Court's November 15, 2018 Order directing the parties to consult and submit to the Court a joint proposal for further proceedings in this matter. As set forth below, the Government is likely to file a motion to dismiss the petition filed by Sociedade Saboeira de Nacala ("Claimant") for lack of standing. The Government proposes filing this motion by no later than December 10, 2018 with the remainder of the motion schedule as set forth below. Should the Government elect not to file the motion to dismiss, the parties respectfully request 90 days from December 10, 2018, until March 10, 2019, to complete all fact discovery.

By way of background, Claimant filed its Petition on April 8, 2018 asserting, among other things, that it is "the legal and intended owner" of the real property that is the subject of the forfeiture order entered in this case. (See Goldsmith Aff. ¶ 11 (dkt.# 158); Rajahussen Aff. ¶ 11 (dkt.# 159)). However, as evidence at trial demonstrated, the Claimant transferred the property to another entity, Amer Holdings, PTE, Ltd. in or about May 2012. (GX 203, 204). Accordingly, it appears that the Claimant does not own the property (or, more precisely, the proceeds of the sale of the property by Dutchess County) and therefore has no standing to file a petition claiming an interest in the property. In his November 12, 2018 letter to the Court, counsel for Claimant concedes that the property appears to have been transferred to Amer Holdings in or about 2012 and that, as a result, "it appears as though SSdN's standing to continue litigating this claim may be mooted." (dkt.# 172).

Given these facts, the Government is likely to file a motion to dismiss the Petition for lack of standing. The parties therefore propose the following schedule for the court's consideration:

- Should the Government elect to file a motion to dismiss based upon lack of standing, it shall file such motion by December 10, 2018.
- The Claimant's response will be due by January 7, 2019.
- The Government's reply will be due by January 21, 2019.
- Should the Government choose not to file a motion to dismiss for lack of standing, the parties will have 90 days from that date, until March 10, 2019, to complete fact discovery in anticipation of further dispositive motions or, if necessary, a hearing.

I have consulted with Aaron Goldsmith, Esq., counsel for the Claimant, who concurs in this proposal. The Government therefore respectfully requests that the Court so-order the above schedule.

Respectfully submitted,  
GEOFFREY S. BERMAN  
United States Attorney

By: \_\_\_\_\_/s/\_\_\_\_\_  
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cc: Aaron Goldsmith, Esq. (via ECF)

*Elisha Kobre*

*Elisha Kobre*  
Nov. 26, 2018